



#16 (NE)
Terminal Disclaimer
6-14-04 SB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BAUM

Application No.: 10/038,004

Filed: 1/2/2002

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Examiner: GARG, YOGESH C

Art Unit: 3625

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TERMINAL DISCLAIMER PURSUANT
TO §1.321

5 Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:


10 Petitioner, SHUTTERFLY, INC., is the owner of 100 percent interest in
the instant application. Petitioner hereby disclaims, except as provided below, the
terminal part of the statutory term of any patent granted on the instant application, which
15 would extend beyond the expiration date of the full statutory term defined in 35 U.S.C.
154 to 156 and 173, as presently shortened by any terminal disclaimer, of co-pending
Application No. 09/436,704. Petitioner hereby agrees that any patent so granted on the
instant application shall be enforceable only for and during such period that it and the
prior patent are commonly owned. This agreement runs with any patent granted on the
15 instant application and is binding upon the grantee, its successors or assigns.

20 In making the above disclaimer, petitioner does not disclaim the terminal
part of any patent granted on the instant application that would extend to the expiration
date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior
patent, as presently shortened by any terminal disclaimer, in the event that it later: expires
for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of
competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under

37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Xin Wen - Director of Intellectual Property

3/16/04

Date